United Nations CERD/C/MNG/CO/19-22

International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination

Concluding observations on the combined nineteenth to twenty-second periodic reports of Mongolia*

1. The Committee considered the combined nineteenth to twenty-second periodic reports of Mongolia (CERD/C/MNG/19-22), submitted in one document, at its 2406th and 2407th meetings (see CERD/C/SR.2406 and 2407), held on 2 and 3 December 2015. At its 2415th meeting, held on 9 December 2015, it adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the submission by the State party of its combined nineteenth to twenty-second periodic reports, drafted in accordance with the Committee's guidelines for the preparation of reports.

3. The Committee also welcomes the open and constructive dialogue with the high-level delegation of Mongolia, as well as its efforts to provide responses and supplementary replies to issues raised by Committee members during the dialogue.

B. Positive measures

4. The Committee welcomes the ratification by the State party of the following international human rights instruments:

(a) The Convention on the Rights of Persons with Disabilities and its Optional Protocol, in 2009;

(b) The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, in 2010;

(c) The Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, in 2012;

(d) The Optional Protocol to the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, in 2015.

5. The Committee also welcomes the efforts made by the State party in revising its legislation in areas of relevance to the Convention, including:

* Adopted by the Committee at its eighty-eighth session (23 November-11 December 2015).

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(a) The amendment of the Law on Education (2002), in 2006;

(b) The amendment of the Law on Public Service (2002), in 2011;

(c) The amendment of the Labour Law (1999), in 2011.

C. Concerns and recommendations

Lack of disaggregated data

6. The Committee regrets the lack of disaggregated data that would enable the State party and the Committee to determine the existence of structural or indirect racial discrimination and to assess the impact of measures taken over time (art. 2).

7. **The Committee recommends that the State party adopt a clear and consistent methodology in accordance with international standards to collect detailed, disaggregated data that would allow the State party and the Committee to assess the enjoyment of human rights by individuals belonging to ethnic minority groups. The Committee welcomes the willingness expressed by the State party delegation to provide detailed statistical information in its next periodic report, and requests that such information also include details on: (a) the socioeconomic situation of ethnic minority groups, such as the Kazakh and Tssatan (Dukha) populations, and the representation of women from such groups in positions of leadership; and (b) the socioeconomic situation of non-citizens, including asylum seekers, refugees, migrants and stateless persons.**

Anti-discrimination legislation

8. While noting the position of the State party that anti-discrimination provisions in the Constitution and other sectoral laws provide protection against racial discrimination, the Committee reiterates its previous concern at the lack of a specific and comprehensive legislation containing a definition of racial discrimination in accordance with article 1 of the Convention and prohibiting all forms of racial discrimination (arts. 1 and 2).

9. **The Committee reiterates its recommendation that the State party adopt specific and comprehensive legislation that defines racial discrimination in accordance with article 1 of the Convention and prohibits all forms of racial discrimination.**

Access to remedies

10. While welcoming the measures taken by the State party to reform the judiciary, the Committee remains concerned at the prevalence of corruption and lack of transparency in the judiciary. It also notes the lack of cases of racial discrimination considered by domestic courts (art. 6).

11. **The Committee recommends that the State party's measures to reform the judiciary be taken in a comprehensive and holistic manner so as to address the root causes of corruption and lack of transparency and ensure access to effective remedies. It also recommends that the State party ensure that mandatory training for judges, prosecutors, court officials, lawyers and other related professions includes training in the Convention. The Committee reiterates its position that the absence of complaints and legal action by victims of racial discrimination may be indicative of the absence of relevant specific legislation, a lack of awareness of the availability of legal remedies, a lack of confidence in such remedies and insufficient will on the part of the authorities to prosecute. In that regard, the Committee recommends that the State party intensify its efforts to raise awareness of remedies that are available to victims of racial discrimination.**

National human rights institution

12. While welcoming the reaccreditation of the National Human Rights Commission with "A" status in October 2014, the Committee expresses concern at the significant reduction in its funding, which undermines its ability to effectively and independently carry out its mandate (art. 2).

13. **The Committee recommends that the State party ensure that the National Human Rights Commission receives sufficient funding to guarantee its full independence and effectiveness in compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).**

Racist hate speech

14. The Committee expresses concern at the lack of legislation in the State party that prohibits racist hate speech in conformity with article 4 of the Convention (art. 4).

15. **Taking note that the revised Criminal Code was adopted by Parliament on 4 December 2015, the Committee recommends that the State party ensure that the provisions prohibiting racist hate speech are in accordance with article 4 of the Convention, explicitly prohibiting, as offences: (a) all dissemination of ideas based on racial superiority or hatred; (b) incitement to racial discrimination; and (c) incitement to acts of violence against any race or group of persons of another colour or ethnic origin. The Committee also draws the attention of the State party to its general recommendation No. 35 (2013) on combating racist hate speech, in which it is underlined, inter alia, that the criminalization of racist expression should be reserved for the most serious cases and that less serious cases should be addressed by means other than criminal law. In the same general recommendation, the Committee also outlines measures that can be taken in the fields of teaching, education, culture and information to address the root causes of racist hate speech.**

Racist organizations and hate crimes

16. While noting the information provided by the State party delegation indicating that the Law on the Status of Foreign Citizens was revised in 2010 to prevent and punish racist hate crimes, the Committee remains concerned at reported instances of racially motivated violence against foreigners and at the existence of ultra-nationalist neo-Nazi organizations such as Dayar Mongol and Tsagaan Khass (arts. 4 and 7).

17. **Noting that several cases of racially motivated violence are being investigated and that the organization Dayar Mongol is in the process of being dissolved, the Committee requests the State party to provide further information on the outcome of these cases. It recommends that the State party declare illegal and prohibit organizations that promote and incite racial discrimination, as well as the participation of individuals in such organizations or activities as an offence punishable by law, in accordance with article 4 of the Convention. The Committee also recommends that the State party ensure that all cases of racially motivated violence are promptly and effectively investigated and that perpetrators are prosecuted. The Committee further recommends that the State party adopt appropriate measures in the fields of teaching, education, culture and information to combat prejudices and other underlying causes of the existence of ultra-nationalist and neo-Nazi organizations.**

Asylum seekers, refugees and stateless persons

18. Despite the information provided by the State party indicating that there are no cases of asylum seekers and refugees coming to Mongolia, the Committee takes note of conflicting information indicating that, while the number of asylum seekers may be low, there are nevertheless individuals entering Mongolia seeking asylum. The Committee is concerned that there may be asylum seekers who remain unregistered and have difficulties enjoying their rights, particularly given the absence of national refugee legislation. The Committee also regrets the lack of information provided by the State party concerning the situation of stateless persons (arts. 2 and 5).

19. **The Committee recommends that the State party take effective measures to fully guarantee the rights of asylum seekers, refugees and stateless persons, and to provide information concerning their situation in the next periodic report. The Committee also encourages the State party to ratify the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, as well as the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.**

Immigration policy

20. While noting that the law on the Legal Status of Foreign Citizens (1993) was amended in 2010, the Committee reiterates its previous concern at the existence of a numerical threshold for the entry and residence of non-citizens according to nationality. The Committee also expresses concern that, while the requirement to obtain an exit visa under article 34 of the above-mentioned law is merely an administrative procedure according to the State party delegation, it may nevertheless be used to exert pressure on non-citizens to settle legal disputes (arts. 2 and 5).

21. **The Committee welcomes the information provided by the State party delegation indicating that the State party intends to introduce specific amendments to eliminate any administrative obstacles to foreigners exiting the country. It also recommends that the State party abolish the numerical threshold for the entry and residence of non-citizens.**

Migrant workers

22. The Committee expresses concern at reports regarding the situation of migrant workers, including those who are involved in forced or compulsory labour, experience substandard working and living conditions and do not have their wages paid on time. It is also concerned at the lack of adequate and effective monitoring and inspection mechanisms to ensure that working conditions meet international standards (arts. 2 and 5).

23. **The Committee recommends that the State party take concrete measures to combat the forced or compulsory labour of migrant workers and to ensure that working conditions meet international standards. The Committee requests the State party to provide, in its next periodic report, detailed information in this regard, including information on cases of employers being brought to account.**

Ethnic minorities

24. While noting the information provided by the State party indicating that rates of poverty, unemployment and school dropouts in the regions populated by ethnic minorities is within the national average, the Committee nevertheless remains concerned that members of ethnic minority groups continue to face obstacles to the full enjoyment of their rights (arts. 2 and 5).

25. **The Committee recommends that the State party undertake regular and comprehensive human rights-based assessments of the situation of ethnic minorities to develop appropriate policies and to ensure that such policies are effective in eliminating any obstacles to the enjoyment by minorities of their rights, particularly in relation to poverty, unemployment and lack of access to education in minority languages.**

Indigenous peoples

26. The Committee welcomes the information provided by the State party on improving the situation of Tsaatan (Dukha) reindeer herders, including in respect of: (a) the provision of social insurance contributions and monthly subsidies; (b) the employment of herders as rangers of the Tenghis-Shishghed national park; and (c) the adoption of a new law on mineral resources that reportedly requires the consent and approval of the local community prior to the issuance of mining licences. Nevertheless, the Committee remains concerned at reports regarding:

(a) The adverse impact of mining projects on the livelihood, lifestyle and culture of the Tsaatan (Dukha) people;

(b) The fact that, in practice, the free, prior and informed consent of the Tsaatan (Dukha) people is not obtained when licences for mining in their traditional territory are granted;

(c) Poverty among herders living in remote areas.

27. **In the light of its general recommendation No. 23 (1997) on the rights of indigenous peoples and the United Nations Declaration on the Rights of Indigenous Peoples, the Committee recommends that the State party ensure that the Tsaatan (Dukha) people are fully and effectively consulted on all decisions affecting them, including with regard to the issuing of mining licences, any restrictions on hunting practices and government policies and programmes intended to improve their standard of living. The Committee also recommends that the State party ratify the Indigenous and Tribal Peoples Convention, 1989 (No. 169), of the International Labour Organization.**

D. Other recommendations

Ratification of other treaties

28. **Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties that it has not yet ratified, in particular treaties with provisions that have direct relevance to communities that may be subjected to racial discrimination, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.**

Amendment to article 8 of the Convention

29. **The Committee recommends that the State party ratify the amendment to article 8 (6) of the Convention adopted on 15 January 1992 at the fourteenth meeting of States parties to the Convention and endorsed by the General Assembly in its resolution 47/111.**

Declaration under article 14 of the Convention

30. **The Committee encourages the State party to consider making the optional declaration provided for in article 14 of the Convention recognizing the competence of the Committee to receive and consider individual complaints.**

Follow-up to the Durban Declaration and Programme of Action

31. **In the light of its general recommendation No. 33 (2009) on the follow-up to the Durban Review Conference, the Committee recommends that, when implementing the Convention in its domestic legal order, the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the outcome document of the Durban Review Conference, held in Geneva in April 2009. The Committee requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.**

International Decade for People of African Descent

32. **In the light of General Assembly resolution 68/237, in which the Assembly proclaimed 2015-2024 the International Decade for People of African Descent, and Assembly resolution 69/16 on the programme of activities for the implementation of the Decade, the Committee recommends that the State party prepare and implement a suitable programme of measures and policies. The Committee requests that the State party include in its next report precise information on the concrete measures adopted in that framework, taking into account its general recommendation No. 34 (2011) on racial discrimination against people of African descent.**

Consultations with civil society

33. **The Committee recommends that the State party continue consulting and increasing its dialogue with civil society organizations working in the area of human rights protection, in particular those working to combat racial discrimination, in connection with the preparation of the next periodic report and in follow-up to the present concluding observations.**

Dissemination of information

34. **The Committee recommends that the State party's reports be made readily available and accessible to the public at the time of their submission and that the concluding observations of the Committee with respect to those reports be similarly made available to all State bodies entrusted with the implementation of the Convention, including municipalities, and publicized on the website of the Ministry of Foreign Affairs in the official and other commonly used languages, as appropriate.**

Follow-up to the present concluding observations

35. **In accordance with article 9 (1) of the Convention and rule 65 of its rules of procedure, the Committee requests the State party to provide, within one year of the adoption of the present concluding observations, information on its implementation of the recommendations contained in paragraphs 15, 17 and 29 above.**

Paragraphs of particular importance

36. **The Committee wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 7, 16 and 27 above and requests the State party to provide detailed information in its next periodic report on the concrete measures taken to implement those recommendations.**

Preparation of the next periodic report

37. **The Committee recommends that the State party submit its combined twenty-third and twenty-fourth periodic reports, as a single document, by 6 September 2018, taking into account the reporting guidelines adopted by the Committee during its seventy-first session (CERD/C/2007/1) and addressing all the points raised in the present concluding observations. In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 21,200 words for periodic reports.**